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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,760	12/05/2003	Kenneth C. Boyle	P06090US00	3212

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EXAMINER
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COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,760	<b>Applicant(s)</b> BOYLE ET AL.	
	<b>Examiner</b> Charles E. Cooley	<b>Art Unit</b> 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-26 is/are rejected.
- 7) ☒ Claim(s) 5-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12052003</u> . | 6) <input type="checkbox"/> Other: ____  |

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## **NON-FINAL OFFICE ACTION**

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

### ***Information Disclosure Statement***

2. Note the attached PTO-1449 form submitted with the Information Disclosure Statement filed 5 DEC 2003.

### ***Drawings***

3. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).

***Specification***

4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
5. The disclosure is objected to because of the following informalities:
  - a. Page 1, line 13: it appears "house" should be --housing--.Appropriate correction is required.
6. The abstract is acceptable.
7. The title is acceptable.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1, 2, 4, 11, 12, 15, 16, 17, 18, 19, 23, 24, 25, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin (US 6,599,006 B1).**

The patent to Lin (US 6,599,006 B1) discloses a mixer with a housing having an upper surface disposed above a lower surface (such as the base thereof seen in Fig. 3);

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a motor within the housing connected to an output shaft; a control panel on the housing having a rotary dial 1 that is adjustable to select a motor speed and a power button 2 located in the center of the rotary dial 1 for starting the motor of the mixer; a speed indicator with multiple speed locations disposed radially from an axis of the dial as seen in Figs. 2, 3, and 5; the control panel on the upper surface of the housing; the dial having an off position "O" and a standby position "IL"; the power button 2 having a stop position as seen in Fig. 5; the speed indicator on the upper surface of the housing with multiple speed locations (the indicia "IL", "O", "I", and "II") that indicates the corresponding speed of the motor.

More particularly, the patent to Lin discloses an improved structure of a control switch, and in particular, a control switch for use in food processor, juice blender, etc. Accordingly, it is an object of the present invention to provide an improved structure of a control switch for a food processor having a fully automatic control key and a disc-type rotating switch mounted with a stop button, speed I button, speed II button, and an instantaneous speed button, characterized in that the fully automatic control key is preset by means of an IC program located within the center position of the rotating shaft of the rotating switch and is controllable by pressing of the key, the logic mechanism of the operation includes a start action, in operation by pressing the key; a fast and slow setting, an instantaneous setting, in operation in rotating, stopping, rotating and stopping sequence; a stop action, including automatic stopping after operation has been completed and stopping action when the stop button is pressed; and a timing setting, allowing time setting of start action, fast speed rotation, slow speed rotation,

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instantaneous speed rotation, and stop rotation, and the timing of setting is in the sequence of fast speed rotation, slow speed rotation and instantaneous speed rotation.

Yet another object of the present invention is to provide an improved structure of a control switch of a food processor, wherein the fully automatic control key is provided within the disc, facilitating the mounting of the wires of the integrated circuit for the IC program.

Referring to FIG. 2, there is shown a disc-type rotating switch 1. The rotating switch 1 comprises a stop button, speed I rotation, speed II rotation, and an instantaneous rotation. The rotating switch 1 is in combination with a single fully automatic control key 2 which contains an IC program positioned at the central position of the rotating shaft 11 of the rotating switch 1. The control key 2 is operated by pressing of the key. For instance, the first pressing of the key 2, which enables automatic mode and then stops (with a warning), or in the course of automatic operation, the key 2 is pressed once to cause the rotation to stop.

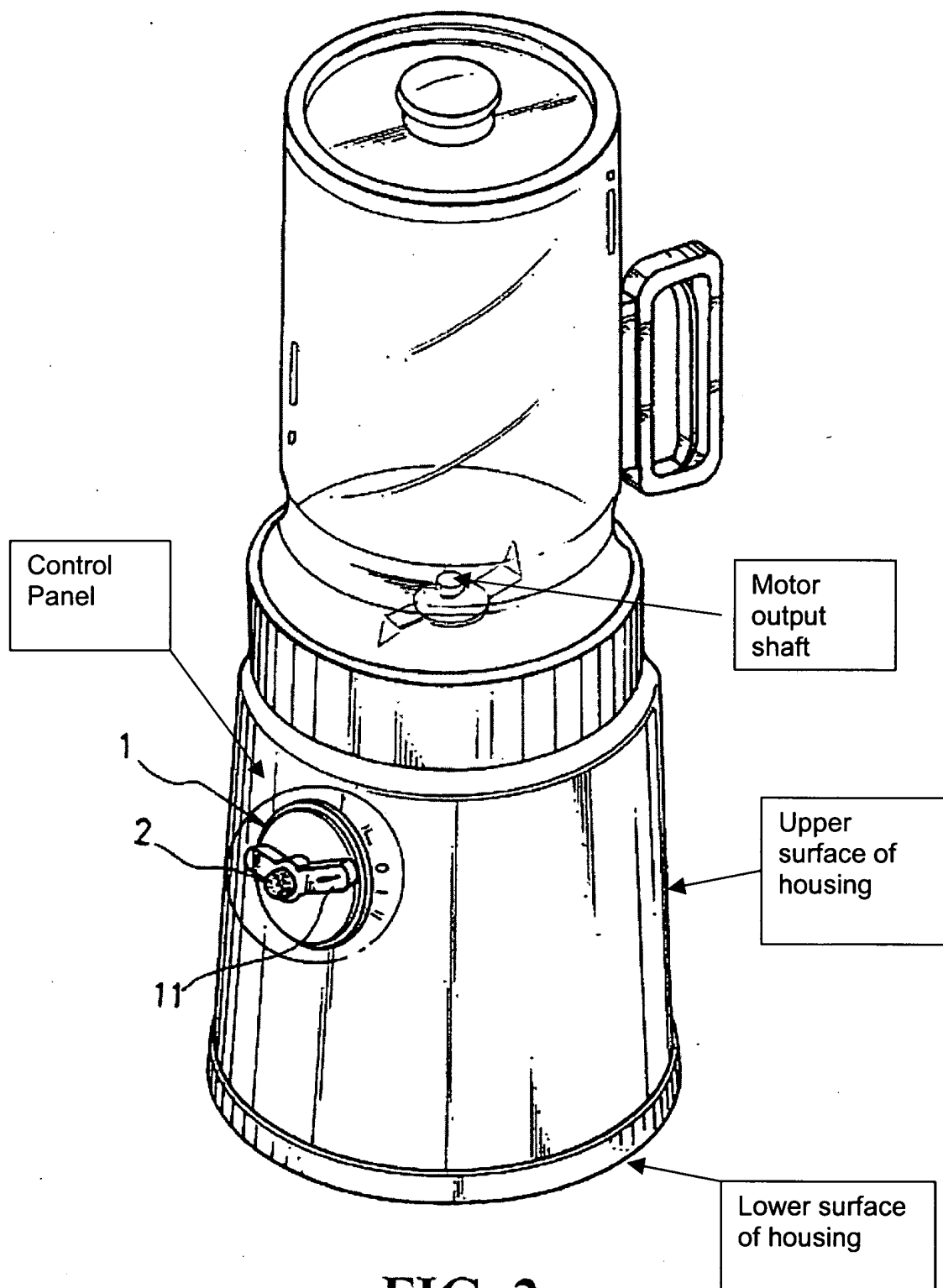
As shown in FIG. 3, the automatic control key 2 can be positioned at an appropriate position of the rotating switch 1, or may not be positioned within the rotating switch 1. As shown in FIG. 4, the position of the control key 2 is positioned at a place where the wires of the circuit board do not affect the control switch 1.

Referring to FIG. 5, there is shown the operation of the fully automatic control key 2. The operation steps are as follows: (a) Start (initial): The key is pressed and the operation starts; (b) Fast speed rotation, slow speed rotation setting: presetting a time to provide a fast speed rotation and a slow speed rotation. This will allow a food processor

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to change speed of rotation instantaneously; (c) Instantaneous rotation setting: provide setting to start rotation and to stop rotation. This provides the effect of re-mixing or another cutting of food action. (d) Stop action: This provides two actions, either stop the rotation when the entire processing is completed or stop rotation when the control switch is pressed; (e) Time setting: enables the setting of time for the start operation, fast speed rotation, slow speed rotation and instantaneous rotation. In accordance with the present invention, the setting of the logic mechanism is in fast speed rotation, slow speed rotation and instantaneous speed rotation.

In accordance with the present invention, the advantages are as follows: (i) The control key does not occupy space and will not affect the control switch, and the operation of the key is fully automatic. (ii) No monitoring of the food processor is needed as the control key provides automatic operation. (iii) The operation can be completed within a preset time. Most importantly, after the operation sequence is completed, the operation is stopped automatically (iv) The stop setting can be used in the operation. That is when the stop button is pressed, the rotation is stopped.



**FIG. 2**

of LIN



**10. Claims 18, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickson, Jr. et al. (US 5,556,198).**

The patent to Dickson, Jr. et al. (US 5,556,198) discloses a mixer with a housing having an upper surface (at 26) disposed above a lower surface 24; a motor 32 within the housing connected to an output shaft 34; a control panel 26 on the housing having a power switch 90, a speed selector 96, 97, and a speed indicator 98; the control panel 26 being located on the upper surface of the housing (Fig. 2).

**11. Claims 18, 19, 20, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Guilder (US 2,616,673).**

The patent to Van Guilder (US 2,616,673) discloses a mixer with a housing having an upper surface 260 disposed above a lower surface 104; a motor 180 within the housing connected to an output shaft 184; a control panel (Fig. 9) on the housing having a power switch 284, a speed selector 272, and a speed indicator 372 with a plurality of speed locations; the control panel being located on the upper surface of the housing (Fig. 9); and a lens 358 at the plurality of speed locations.

**12. Claims 18, 19, 20, 23, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Polivka et al. (US 2,616,674).**

The patent to Polivka et al. discloses a mixer with a housing having an upper surface 166 disposed above a lower surface 88; a motor 68 within the housing

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connected to an output shaft 174; a control panel (Fig. 2) on the housing having a power switch 252, a speed selector 226, and a speed indicator 220 with a plurality of speed locations; the control panel being located on the upper surface of the housing (Fig. 2); and a lens 194 at the plurality of speed locations.

With respect to claims 24 and 25, the patent to Polivka et al. discloses a mixer with a housing having an upper surface 166 disposed above a lower surface 88; a motor 68 within the housing connected to an output shaft 174; a control panel (Fig. 2) on the housing and being located on the upper surface of the housing (Fig. 2); a speed indicator 220; a power button 226; and a rotary dial 244 adjustable by a user for controlling the motor.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**15. Claims 3, 10, 13, 14, 20, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6,599,006 B1) in view of Piland (US 5,347,205).**

Lin (US 6,599,006 B1) does not disclose the recited lens or lights/illuminators. The patent to Piland discloses a mixer with a control panel 12 having lights/illuminators 19, 21, 31, and 32-38 in the form of light emitting diodes that inherently have a lens that the produced light passes through. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have provided the control panel of Lin with lights/illuminators in the form of light emitting diodes with lens as suggested by Piland for the purpose of providing the operator with a visual indication of the operating status/readiness of the mixer and the speed selection of the mixer (col. 4, lines 6-9).

**16. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Guilder (US 2,616,673) or Polivka et al. (US 2,616,674) in view of Piland (US 5,347,205).**

Van Guilder (US 2,616,673) and Polivka et al. (US 2,616,674) do not disclose the recited illuminators. The patent to Piland discloses a mixer with a control panel 12 having illuminators 19, 21, 31, and 32-38 in the form of light emitting diodes. It would have been obvious to one having ordinary skill in the art, at the time applicant's

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invention was made, to have provided the control panel of Van Guilder (US 2,616,673) or Polivka et al. (US 2,616,674) with illuminators in the form of light emitting diodes as suggested by Piland for the purpose of providing the operator with a visual indication of the operating status and the speed selection of the mixer (col. 4, lines 6-9).

***Allowable Subject Matter***

17. Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art discloses motor control means for mixers.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

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20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles", followed by a long, horizontal, wavy flourish.

Charles E. Cooley  
Primary Examiner  
Art Unit 1723

15 September 2005